

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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LEROY DORSEY,

Plaintiff,

-v-

N.Y.S. OFFICE OF MENTAL HEALTH; JOHN
DOE, EMPLOYEE, STAFF CHIEF, SING SING
CORR.; JANE DOE, EMPLOYEE,
RECEPTIONIST, SECRETARY, SING SING
CORR.,

Defendants.

07 Civ. 11312 (DLC)

ORDER

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DENISE COTE, District Judge:

This action concerns the release of plaintiff's psychiatric records to the Kings County District Attorney's Office, allegedly without plaintiff's consent and in violation of his constitutional rights. The Office of the Attorney General of the State of New York (the "Attorney General") represents that the records were released in connection with plaintiff's Eastern District of New York habeas action. In that action, plaintiff claimed that his failure to timely file his petition was due to his mental condition. Accordingly, the Court ordered that the Kings County District Attorney's Office -- the respondent in that action -- produce "any documentation that it can obtain (e.g., records of psychiatric treatment) that would be relevant to Dorsey's argument for equitable tolling." Dorsey v. Haponik, No. 05 Civ. 3424 (FB), Dkt. No. 20 (E.D.N.Y. Jan. 31, 2007).

The Attorney General has submitted a copy of that order, as well as a letter from Kings County District Attorney's Office requesting plaintiff's psychiatric records from Sing Sing Correctional Facility, where he is incarcerated.

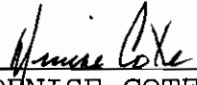
By letters dated March 18 and March 31, 2008, the Attorney General requested dismissal of this action pursuant to 28 U.S.C. § 1915, claiming that the action is "frivolous or otherwise dismissible." This Court's March 19 Order advised the plaintiff that, "to the extent the release of the psychiatric records was pursuant to Judge Block's January 30, 2007 Order requiring the respondent in plaintiff's habeas petition to obtain the records of plaintiff's psychiatric treatment in connection with plaintiff's argument for equitable tolling, this action will be subject to dismissal at the appropriate time." Accordingly, it is hereby

ORDERED that the plaintiff show cause why the case should not be dismissed pursuant to 28 U.S.C. § 1915, which provides in pertinent part that an action filed in forma pauperis shall be dismissed if the Court finds that the action "is frivolous or malicious," or "fails to state a claim on which relief may be granted." Id. § 1915(e)(2)(i)-(ii). Dorsey shall reply to this order to show cause no later than Friday, May 2, 2008. The

Attorney General shall submit any reply by Friday, May 9.

SO ORDERED:

Dated: New York, New York
April 2, 2008



DENISE COTE
United States District Judge

Copy sent to:

Leroy Dorsey
No. 97-A-3442
Woodbourne Correctional Facility
99 Prison Road, P.O. Box 1000
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